



# ENERGY RESOURCES SURCHARGE ANNOTATIONS



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## ENERGY RESOURCES SURCHARGE ANNOTATIONS

**CONSTITUTIONAL EXEMPTION****Consular Officials**

Qualified consular officials and employees, representing a country which is a signatory of the Vienna Convention on Consular Relations, are exempt from payment of the Energy Resources Surcharge. 3/22/82.

**Federally Owned Buildings**

Contractor taxpayer provides comprehensive commercial facility management services at three federally owned buildings. The services required for these buildings include all utility services for which the contractor is responsible for payment in behalf of the Federal Government. The electric utility lists the contractor and not the Federal Government as the purchaser. The contractor neither owns nor leases the buildings and apparently does not occupy or have the right to occupy them. The consumer of the electric energy is the Federal Government. Therefore, the sale of the electric energy is exempt from the surcharge. 2/16/89.

**Job Corps Center**

Charges to a contractor, who is also the operator of a Job Corps Center, are exempt from the Energy Resources Surcharge as exempt sales to the U.S. Government. If the contractor is not the operator but simply a supplier or a consultant, the exemption does not apply. 7/27/93.

**Insurance Company**

An insurance company which is subject to taxation under the California Constitution, Article XIII, Section 28 is exempt from the Energy Resources Surcharge.

An insurance company is the sole owner of four buildings in this state and contracts with a property realty group to manage the buildings. The electric utility bills are in the name of the fictitious business name in care of the property realty group and the bills are paid by the property realty group. The buildings are occupied by both the insurance company staff and third-party lessees.

The identity of the party who writes the checks for the utility bill is not the issue. The issue is who is legally responsible for the utility services for the buildings. In other words, who is the consumer of the utility services? If the lease contract includes the utility service, the landlord is the consumer and if it does not, the tenant is the consumer. Since the utility bills are paid by the realty property manager, who is acting as an agent for the insurance company, the amounts are exempt from the surcharge. 4/8/94.

**Insurance Company**

An insurance company owns a farm which is operated by a farm management company. Because the insurance company is contractually responsible for the monthly utility bills, the utility charges incurred by the farm management company acting on behalf of the insurance company are exempt from the Energy Resources Surcharge under the California Constitution Article XIII, Section 28. 3/25/96.

## **CONSUMPTION BY ELECTRIC UTILITIES**

### **Co-Generated Electrical Energy**

A public entity generates electricity which is “wheeled” (distributed) to its substations via an electric utility’s general power grid and metering equipment. The electricity that is generated by the entity then enters the power grid where it is commingled with the electricity generated or purchased by the electric utility. The public entity uses the utility’s distribution system to supply co-generated electricity to some of its smaller substations. The electricity distributed to the company is not considered self-generated electricity as the electricity used is not necessarily the same energy it generated. The total amount of energy delivered through the distribution system of the electric utility to the entity is subject to the surcharge. 3/6/96.

### **ELECTRIC UTILITY**

The California Energy Resources Surcharge Law imposes a surcharge on the charge for electricity provided a consumer by an electric utility. For purposes of the surcharge, the term “electric utility” does not include a person, such as a mobilehome park owner, who redistributes electrical energy solely for the use of tenants. The park owner is the consumer of the electricity and the surcharge is imposed on the electric utility’s sale to the park owner, not on the park owner’s sale to the residents.

The park owner should not itemize the energy surcharge as a “state tax” because that would indicate that the park owner is the electric utility collecting the surcharge from the residents and remitting it to the state. The park owner should itemize the surcharge as a “business expense” and may bill the surcharge to the residents as a “energy surcharge reimbursement” or “state tax reimbursement”. 10/24/89.

### **REGISTRATION**

Sales of electric energy for resale from one electric utility to another electric utility are generally exempt from the surcharge. However, the seller would still be required to file a return under Section 40061. 1/7/88.

### **Electric Service Providers**

The Electric Service Provider (ESP) that contracts with the consumer to provide electrical energy is selling the electrical energy to the consumer and is an electric utility required to collect, report and remit the surcharge, notwithstanding any collection or billing arrangements the ESP may have with others. The electric utility that delivers the electrical energy to the consumer on behalf of the ESP is not selling the electrical energy to the consumer. 12/24/97. (M99-1).